

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
Civil Action No.: 5:18-cv-00201-D**

DEKALB FARMERS MARKET, INC., )  
WOOD'S PRODUCE COMPANY, INC., and )  
PIONEER GROWERS COOPERATIVE, )

Plaintiffs,

vs.

JUAN ANTONIO PACHECO a/k/a )  
JUAN ANTONIO CASTILLO, and )  
UNITED PRODUCE, LLC, )

Defendants.

**ANSWER AND DEFENSES  
(Jury Demanded)**

Defendant United Produce, LLC, by and through its undersigned counsel responds to the Second Amended Complaint of the Plaintiffs as follows:

**FIRST DEFENSE**

This Court lacks subject matter jurisdiction with respect to the claims asserted in the Second Amended Complaint against United Produce, LLC.

**SECOND DEFENSE**

The Plaintiffs' Second Amended Complaint fails to state a claim upon which relief may be granted against Defendant United Produce, LLC.

### THIRD DEFENSE

The Plaintiffs have failed to join a party which, in their absence, the Court cannot afford complete relief among existing parties, or which claims an interest relating to the subject of the action and is so situated that disposing of the action in the person's absence may as a practical matter impair or impede the party's ability to protect the interest or leave an existing party subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations because of the interest.

### FOURTH DEFENSE AND ANSWER

Defendant United Produce, LLC responds to the numbered paragraphs of the Second Amended Complaint, as follows:

1. This paragraph states legal conclusions to which no response is required. To the extent a response may be deemed necessary, denied as against Defendant United Produce, LLC.
2. This paragraph states legal conclusions to which no response is required. To the extent a response may be deemed necessary, denied as against Defendant United Produce, LLC.
3. a) United Produce, LLC lacks knowledge or information sufficient to form a belief about the truth of the allegations of this paragraph, and therefore denies those allegations.  
b) United Produce, LLC lacks knowledge or information sufficient to form

a belief about the truth of the allegations of this paragraph, and therefore denies those allegations.

c) United Produce, LLC lacks knowledge or information sufficient to form a belief about the truth of the allegations of this paragraph, and therefore denies those allegations.

4. (first paragraph four)

a) United Produce, LLC lacks knowledge or information sufficient to form a belief about the truth of the allegations of this paragraph, and therefore denies those allegations.

b) Upon information and belief, denied that previous Defendant Oscar N. Collazo is a resident of Raleigh, NC. Denied that Mr. Collazo was an owner of Defendant United Produce, LLC, at any time relevant to this action (i.e., November 18, 2017 and thereafter). Except as expressly admitted, United Produce, LLC lacks knowledge or information sufficient to form a belief about the truth of the allegations of this paragraph, and therefore denies those allegations.

c) The first sentence of this paragraph is admitted. United Produce, LLC further admits that at times relevant to this action United Produce, LLC did business with Collazo Produce, Inc. As it is unclear what is meant by the word "affiliate," the remaining allegations of this paragraph are denied.

4. (second paragraph four) This paragraph states legal conclusions to which no response is required. To the extent a response may be deemed necessary,

denied as against Defendant United Produce, LLC.

5. United Produce, LLC lacks knowledge or information sufficient to form a belief about the truth of the allegations of this paragraph, and therefore denies those allegations.
6. United Produce, LLC lacks knowledge or information sufficient to form a belief about the truth of the allegations of this paragraph, and therefore denies those allegations.
7. Denied as to Defendant United Produce, LLC. United Produce, LLC lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations of this paragraph, and therefore denies those allegations.
8. United Produce, LLC lacks knowledge or information sufficient to form a belief about the truth of the allegations of this paragraph, and therefore denies those allegations.
9. Denied that Defendants Oscar N. Collazo and United Produce, LLC have any ownership interest in Collazo Produce, Inc. Upon information and belief, admitted that Collazo Produce, Inc. has filed for bankruptcy. United Produce, LLC lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations of this paragraph, and therefore denies those allegations.
10. United Produce, LLC lacks knowledge or information sufficient to form a belief about the truth of the allegations of this paragraph, and therefore

denies those allegations.

11. United Produce, LLC incorporates its responses to paragraphs 1 through 10.

12. This paragraph states legal conclusions to which no response is required. To the extent a response may be deemed necessary, United Produce, LLC lacks knowledge or information sufficient to form a belief about the truth of the allegations of this paragraph, and therefore denies those allegations.

13. Denied as to Defendant United Produce, LLC. United Produce, LLC lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations of this paragraph, and therefore denies those allegations.

14. United Produce, LLC incorporates its responses to paragraphs 1 through 13.

15. Denied as to Defendant United Produce, LLC. United Produce, LLC lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations of this paragraph, and therefore denies those allegations.

16. Denied as to Defendant United Produce, LLC. United Produce, LLC lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations of this paragraph, and therefore denies those allegations.

17. Denied as to Defendant United Produce, LLC. United Produce, LLC lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations of this paragraph, and therefore denies those

allegations.

18. Denied as to Defendant United Produce, LLC. United Produce, LLC lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations of this paragraph, and therefore denies those allegations.

19. United Produce, LLC incorporates its responses to paragraphs 1 through 18.

20. United Produce, LLC lacks knowledge or information sufficient to form a belief about the truth of the allegations of this paragraph, and therefore denies those allegations.

21. United Produce, LLC lacks knowledge or information sufficient to form a belief about the truth of the allegations of this paragraph, and therefore denies those allegations.

22. This paragraph states legal conclusions to which no response is required. To the extent a response may be deemed necessary, United Produce, LLC lacks knowledge or information sufficient to form a belief about the truth of the allegations of this paragraph, and therefore denies those allegations.

23. United Produce, LLC lacks knowledge or information sufficient to form a belief about the truth of the allegations of this paragraph, and therefore denies those allegations.

24. United Produce, LLC incorporates its responses to paragraphs 1 through 23.

25. United Produce, LLC lacks knowledge or information sufficient to form a belief about the truth of the allegations of this paragraph, and therefore

denies those allegations.

26. United Produce, LLC lacks knowledge or information sufficient to form a belief about the truth of the allegations of this paragraph, and therefore denies those allegations.

27. This paragraph states legal conclusions to which no response is required. To the extent a response may be deemed necessary, United Produce, LLC lacks knowledge or information sufficient to form a belief about the truth of the allegations of this paragraph, and therefore denies those allegations.

28. United Produce, LLC lacks knowledge or information sufficient to form a belief about the truth of the allegations of this paragraph, and therefore denies those allegations.

29. United Produce, LLC incorporates its responses to paragraphs 1 through 28.

30. Denied. By way of further allegation, Defendant United Produce, LLC states that it paid fair and reasonable consideration for any and all assets that may have been transferred to United Produce, LLC by Mr. Collazo or his former company, Collazo Produce, Inc., at any time relevant to this action.

31. Denied.

32. Denied.

33. Denied.

34. Denied.

35. Denied.

36. This paragraph states legal conclusions to which no response is required. To

the extent a response may be deemed necessary, the allegations of this paragraph are denied.

37. Denied.

38. United Produce, LLC incorporates its responses to paragraphs 1 through 37.

39. Denied as to Defendant United Produce, LLC. United Produce, LLC lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations of this paragraph, and therefore denies those allegations. To the extent the referenced invoices and/or PACA impose any such obligations upon one or more of the other Defendants, those obligations would not extend to United Produce, LLC.

40. Denied as to Defendant United Produce, LLC. United Produce, LLC lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations of this paragraph, and therefore denies those allegations. To the extent the referenced invoices and/or PACA impose any such obligations upon one or more of the other Defendants, those obligations would not extend to United Produce, LLC.

WHEREFORE, Defendant United Produce, LLC demands a trial by jury on all issues so triable, and respectfully requests entry of judgment as follows:

1. Against the Plaintiffs and in favor of Defendant United Produce, LLC, on all claims asserted against that Defendant;
2. Awarding Defendant United Produce, LLC its costs and reasonable attorneys fees, as may be allowed by law; and

3. Awarding Defendant United Produce, LLC such further relief as the Court may find appropriate.

Respectfully submitted, this the 28<sup>th</sup> day of November, 2018.

**STEVENS MARTIN VAUGHN & TADYCH, PLLC**

/s/ K. Matthew Vaughn

K. Matthew Vaughn

N.C. State Bar No. 20177

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*Attorneys for Defendant United Produce, LLC*

## CERTIFICATE OF SERVICE

The undersigned certifies that on the 28<sup>th</sup> day of November, 2018, the foregoing document was electronically filed with the Clerk of Court using the CM/ECF system, which will automatically send notification of filing to the following counsel of record:

Leslie Lane Mize  
Nelson Mullins Riley & Scarborough  
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4140 Parklake Avenue, Suite 200  
Raleigh, NC 27612  
[leslie.mize@nelsonmullins.com](mailto:leslie.mize@nelsonmullins.com)

The undersigned also certifies that on the 28<sup>th</sup> day of November, 2018, the foregoing document was dispatched via U.S. Mail to the following:

Juan Antonio Pacheco a/k/a Juan  
Antonio Castillo  
1008 Essex Forest Drive  
Cary, NC 27518-9262

This 28<sup>th</sup> day of November 2018.

/s/ K. Matthew Vaughn  
K. Matthew Vaughn  
NC State Bar No. 20177  
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